

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VICTOR GARCIA,

Plaintiff,

v.

CV No. 20-601 GJF/CG

ALBERT SENA, et al.,

Defendants.

**FOURTH ORDER EXTENDING
PLAINTIFF'S TIME TO SERVE SUMMONS AND COMPLAINT**

THIS MATTER is before the Court on Plaintiff's unopposed *Fourth Motion to Extend Time to Serve Defendants* (the "Motion"), (Doc. 30), filed January 13, 2021. Plaintiff seeks additional time to properly serve the Summons and Complaint upon Defendants. *Id.* at 3. Plaintiff filed his Complaint on June 22, 2020, (Doc. 1), and an Amended Complaint on September 10, 2020, (Doc. 4), alleging violations of 42 U.S.C. § 1983. The Court previously extended Plaintiff's time to serve Defendants with the Summons and Complaint to October 7, 2020, (Doc. 6), a second time to December 13, 2020, (Doc. 19); (Doc. 20); (Doc. 26), and a third time to January 14, 2021, (Doc. 29).

In the Motion, Plaintiff states that since the Court's last extension he has served or is in the process of obtaining service waivers for each defendant except Defendant Albert Sena. (Doc. 30 at 2). Plaintiff explains that he has obtained a telephone number for Defendant Sena and is in the process of obtaining further information via subpoena. *Id.* Plaintiff further details the delay to his efforts as a result of the COVID-19 pandemic. *Id.* Accordingly, Plaintiff asks the Court to find good cause exists to further extend Plaintiff's time to serve the Summons and Complaint on Defendant Sena. *Id.* at 3.

Upon a showing of good cause by a plaintiff, the Court is *required* to extend the time for service for an appropriate period. FED. R. CIV. P. 4(m). Even if the plaintiff has not demonstrated good cause for an extension of time, the Court may, in its discretion, extend time to effect service. *Espinoza v. United States*, 52 F.3d 838 (10th Cir. 1995). The Court finds Plaintiff's good faith efforts to locate and verify Defendants given the obstacles posed by the COVID-19 pandemic constitute "good cause" for an extension of time to serve the Summons and Complaint. The Court further notes extending the time for service will not prejudice Defendants, and the Defendants who have been served do not oppose the Motion. See (Doc. 30 at 2).

IT IS THEREFORE ORDERED that Plaintiff's *Fourth Motion to Extend Time to Serve Defendants*, (Doc. 30), be **GRANTED**. Plaintiff shall serve the Summons and Complaint upon Defendants by **February 16, 2021**.

IT IS FURTHER ORDERED that Defendants' responses to Plaintiff's Complaint are due **March 9, 2021**.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE